

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SHAW FAMILY ARCHIVES, LTD., EDITH  
MARCUS and META STEVENS,

Plaintiffs,

-against-

CMG WORLDWIDE, INC., an Indiana Corporation:  
and MARILYN MONROE, LLC, a Delaware  
Limited Liability Company,

Defendants.  
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: Index No. 05 CV 3939 (CM)

: Hon. Colleen McMahon  
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**THRID DECLARATION OF DAVID MARCUS**

I, DAVID MARCUS, an attorney duly licensed to practice law before this Court,  
declare the following facts under penalty of perjury:

1. I represent Shaw Family Archives, Ltd., Edith Marcus, Meta Stevens and  
Bradford Licensing Associates (collectively referred to as the "Shaw Family") in the above-  
captioned matter and am fully familiar with the facts set forth herein. I respectfully submit this  
declaration on behalf of the Shaw Family in opposition to Defendants motion to strike the evidence  
offered by the Shaw Family in support of their motion that Defendants are estopped from claiming  
that Marilyn Monroe died anything but a New York domiciliary and in support of their Motion for  
Summary Judgment.

2. Annexed hereto as Exhibit A is a true and correct copy of a Decision and Order of  
the Honorable Margaret Morrow, dated March 17, 2008.

3. Annexed hereto as Exhibit B is a true and correct copy of excerpts from the deposition of Mark Roesler, taken on December 26, 2007.

4. Annexed hereto as Exhibit C is a true and correct copy of a stipulation between the parties, So-Ordered by Honorable Colleen McMahon, dated March 6, 2008.

5. Annexed hereto as Exhibit D is a true and correct copy of an electronic communication between Christopher Serbagi and Jonathan Strauss, dated January 28, 2008.

6. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of the Petition for Letters of Administration by Inez Melson, filed in the California superior Court, County of Los Angeles, dated August 9, 1962, together with nomination by executor elect Aaron Frosch, dated August 9, 1962. SFA 594-599. The Shaw Family attached a true and correct certified copy of this document as Exhibit 2 to the Declaration of David Marcus, dated February 14, 2008, ("Marcus Decl."). SFA 1 0260-264, 219-220

7. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of the Order Appointing Special Administratrix of the California Superior Court, County of Los Angeles, dated August 10, 1962. SFA 00592. The Shaw Family attached a true and correct certified copy of this document as Exhibit 3 to the Marcus Decl. SFA1 0258-259

8. The Defendants and the Shaw Family produced, prior to the completion of discovery, a true and correct copy of the Petition for Probate of Foreign Will and for Ancillary Letters Testamentary, dated December 17, 1962. MM 0009381-9389; SFA 0064-67, 00962-966. The Shaw Family attached a true and correct certified copy of this document as Exhibit 6 to the Marcus Decl. SFA1 0021-230

9. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of the California Superior Court's Order admitting Marilyn Monroe's foreign will to

probate and granting ancillary letters testamentary to Aaron Frosch, dated January 21, 1963. SFA 00600-601 The Shaw Family attached a true and correct certified copy of this document as Exhibit 7 to the Marcus Decl. SFA1 0231-233

10. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of Letters Testamentary issued by the California Superior Court to Aaron Frosch, dated February 26, 1963. SFA 00958. The Shaw Family attached a true and correct certified copy of this document as Exhibit 8 to the Marcus Decl. SFA1 0254-255

11. The Defendants produced, prior to the completion of discovery, a copy of an Inventory and Appraisement filed with the California Superior Court, together with Inventory and Statement of Assets, dated April 11, 1963. MM 0009344-9346. The Shaw Family attached a true and correct certified copy of this document as Exhibit 9 to the Marcus Decl. SFA1 0234-237

12. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of the Notice of Filing of Report of the Inheritance Tax Appraiser, dated April 28, 1967, with the Report of the Inheritance Tax Appraiser, dated April 5, 1967. SFA 00605-607. The Shaw Family attached a true and correct certified copy of this document as Exhibit 17 to the Marcus Decl.

13. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of a the order fixing the Estate of Marilyn Monroe's inheritance tax in California, dated May 9, 1967. SFA 00604. The Shaw Family attached a true and correct certified copy of this document as Exhibit 18 to the Marcus Decl.

14. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of a petition, filed in the California Superior Court, for an order approving compromise, dated December 30, 1975. SFA 00608-615, 694-699. The Shaw Family attached a

true and correct certified copy of this document as Exhibit 24 to the Marcus Decl. SFA1 0238-0250

15. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of the Order, of the California Superior Court, approving compromise, dated February 5, 1976. SFA 00692-693. The Shaw Family attached a true and correct certified copy of this document as Exhibit 25 to the Marcus Decl. SFA1 0251-253

16. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of the Notice of Hearing, dated May 25, 1976, and First and Final Account of the Ancillary Executor, with exhibits, dated April 29, 1976. SFA 575-591, 622-651, 770-772, 779, 970-978. The Shaw Family attached a true and correct certified copy of this document as Exhibit 26 to the Marcus Decl. SFA1 0155-212

17. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of an Order from the Superior Court of California settling first and final accounting, dated July 15, 1976. SFA 00616-619. The Shaw Family attached a true and correct certified copy of this document as Exhibit 27 to the Marcus Decl. SFA1 0132-136

18. The Shaw Family produced, prior to the completion of discovery, a true and correct copy of an Order of the California Surrogate's Court discharging Aaron Frosch as ancillary executor, dated January 21, 1977. SFA 00656-657. The Shaw Family attached a true and correct certified copy of this document as Exhibit 30 to the Marcus Decl.

19. The Defendants produced, prior to the completion of discovery, a copy of the Complaint of Nancy Miracle filed in the United States District Court in the District of Hawaii, dated September 16, 1992. MM 0001546-1553. The Shaw Family attached a true and correct certified copy of this document as Exhibit 40 to the Marcus Decl. SFA1 0001-0009.

20. The Defendants produced, prior to the completion of discovery, a copy of Anna Strasberg's Notice of Hearing of her motion to dismiss Nancy Miracle's complaint, dated November 9, 1992. MM 0037658-37713. The Shaw Family attached a true and correct certified copy of this document as Exhibit 41 to the Marcus Decl.

21. The Defendants produced, prior to the completion of discovery, a copy of an Affidavit of domicile of JohnAaron Murphy Jones, dated November 20, 1992. MM 0000929-931. The Shaw Family attached a true and correct certified copy of this document as Exhibit 42 to the Marcus Decl. SFA1 0029-31

22. The Defendants produced, prior to the completion of discovery, a true and correct certified copy of Nancy Miracle's motion to shorten time to hear her motion to continue Anna Strasberg's motion to dismiss, dated November 23, 1992. MM 0001488-1493. The Shaw Family attached a true and correct certified copy of this document as Exhibit 43 to the Marcus Decl.

23. The Defendants produced, prior to the completion of discovery, a copy of Anna Strasberg's Memorandum in Opposition to Nancy Miracle's motion to continue, dated November 24, 1992. MM 0001469-1486. The Shaw Family attached a true and correct certified copy of this document as Exhibit 44 to the Marcus Decl.

24. The Defendants produced, prior to the completion of discovery, a copy of Nancy Miracle's First Amended Complaint, dated November 27, 1992. MM 0001462-1468. The Shaw Family attached a true and correct certified copy of this document as Exhibit 46 to the Marcus Decl.

25. The Defendants produced, prior to the completion of discovery, a copy of Nancy Miracle's memorandum of law in opposition to Anna Strasberg's motion to dismiss, dated

November 30, 1992. MM 0001416-1461. The Shaw Family attached a true and correct certified copy of this document as Exhibit 47 to the Marcus Decl.

26. The Defendants produced, prior to the completion of discovery, a copy of an Order from the United States District Court for the District of Hawaii, dated December 23, 1992. MM 0000268-282. The Shaw Family attached a true and correct certified copy of this document as Exhibit 49 to the Marcus Decl.

27. The Defendants produced, prior to the completion of discovery, a copy of Nancy Miracle's Motion to reconsider the order dismissing her complaint, dated January 4, 1993. MM 0001382-1399. The Shaw Family attached a true and correct certified copy of this document as Exhibit 50 to the Marcus Decl.

28. The Defendants produced, prior to the completion of discovery, a copy of Anna Strasberg's memorandum in opposition to Nancy Miracle's motion to reconsider, dated January 12, 1993. MM 0000807-809. The Shaw Family attached a true and correct certified copy of this document as Exhibit 52 to the Marcus Decl.

29. The Defendants produced, prior to the completion of discovery, a copy of Nancy Miracle's Notice of Appeal, dated January 13, 1993. MM 0001377. The Shaw Family attached a true and correct certified copy of this document as Exhibit 52 to the Marcus Decl.

30. The Defendants produced, prior to the completion of discovery, a copy of an Order from the United States District Court for the District of Hawaii, dated January 25, 1993. MM 0035802-335804. The Shaw Family attached a true and correct certified copy of this document as Exhibit 53 to the Marcus Decl.

31. The Defendants produced, prior to the completion of discovery, a copy of Nancy Miracle's opening brief filed in the Ninth Circuit, dated May 14, 1993. MM 0000303-383. The

Shaw Family attached a true and correct certified copy of this document as Exhibit 54 to the Marcus Decl.

32. The Defendants produced, prior to the completion of discovery, a copy of an Order of the Ninth Circuit dated June 11, 1993. MM 0001369-1370. The Shaw Family attached a true and correct certified copy of this document as Exhibit 55 to the Marcus Decl.

33. The transcripts attached as Exhibits 45 and 48 to the Marcus Decl., are publically available. Defendants were aware of these documents, and most likely possessed them, prior to the completion of discovery.

Dated: New York, New York  
March 27, 2008

LAW OFFICES OF CHRISTOPHER SERBAGI



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